



LAW REFORM
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EMBARGO: MIDNIGHT MONDAY 27TH JULY 2009

LAW REFORM COMMISSION PUBLISHES CONSULTATION PAPER ON PROFESSIONAL HOME CARERS

CONSULTATION PAPER PROPOSES STATUTORY REGULATION OF PROFESSIONAL HOME CARERS BY HIQA

Tuesday 28th July 2009: The Law Reform Commission's *Consultation Paper on Professional Home Carers* will be launched by Dr Maureen Gaffney, Chair of the National Economic and Social Forum (and former Law Reform Commissioner), at the Commission's offices at 6 pm this evening.

The Consultation Paper forms part of the Commission's *Third Programme of Law Reform 2008-2014*, and involves an examination of the extent to which the law should be reformed to ensure that appropriate legal standards are in place for professional home carers. The Consultation Paper makes 21 provisional recommendations for reform of the law.

Demographic and policy background: care in the community

It is well known that the proportion of people living in Ireland who are aged over 65 has been increasing in recent years, and is projected to increase at an even greater rate over the next few decades. It is also well known, and entirely understandable, that the overwhelming majority of people aged over 65 wish to continue living in their own homes for as long as possible. The Government is committed to supporting this clear preference, most clearly indicated by the provision in recent years of home care support, primarily through the Department of Health and the Health Service Executive (HSE). At the same time, the home care provision by the State has been mirrored by the emergence of commercial home care providers.

Legal background: no regulation of professional home carers

Under the *Health Act 2007*, the Health Information and Quality Authority (HIQA) is the regulatory and standard-setting body for the residential nursing home setting. In 2009, HIQA published national standards for the residential care setting. *These standards cover 5% of the over 65 category.* The *Health Act 2007* does not, however, empower HIQA to set comparable standards for the provision of health care in the home setting, *which would cover the remaining 95% of the over 65 category* (though, of course, not all this group require home care). The Commission therefore recommends in the Consultation Paper that the *Health Act 2007* should be extended to allow HIQA to regulate professional home carers.

Main recommendations

The main recommendations in the Consultation Paper are that:



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- HIQA should be empowered to regulate and monitor professional home carers (domiciliary care providers)
- HIQA standards it proposes for professional home carers should be specifically tailored for the home care setting, building on existing HIQA nursing home standards
- the proposed standards should ensure that home care is provided in a manner that promotes the well-being and independence of the service user in their own home
- the terms and conditions of the home care arrangements should be agreed and recorded in a care contract, in order to offer the maximum protection to the service user
- the care contract should contain clear policies and procedures in relation to the handling by the professional carer of money and personal property of the service user
- an individual who wishes to enter into an arrangement for the provision of professional home care services should have the option to contract with an intermediary, whether a State body (such as the HSE) or a private sector body, who would arrange for the provision of care and who would assume the responsibilities of an employer towards the professional home carer
- the Commission invites submissions as to whether a subvention arrangement, comparable to that for nursing homes in the Nursing Homes Support Scheme Act 2009 (the fair deal scheme), should be extended to professional home care
- section 469 of the *Taxes Consolidation Act 1997* should be extended to provide tax relief for fees incurred by an individual in meeting the cost of professional home care
- the Commission invites submissions as to whether the form of protection for people who report concerns about incidents of possible abuse contained in the *Protection of Persons Reporting Child Abuse Act 1998* should be extended to apply in the context of professional home care
- the Commission also invites submissions on the establishment of a specific register of professional domiciliary carers, which would be operated by HIQA, and which would set out specific requirements in relation to the registration and monitoring of professional domiciliary carers.

For further information / interview with the President, Mrs Justice Catherine McGuinness, or Commissioner Patricia Rickard-Clarke, contact:

Mary McCarthy / Eoin Quinn, Weber Shandwick FCC, T: 01-6760168, or M: 086 2568429

Background Notes for Editors

The Law Reform Commission is an independent statutory body whose main role is to keep the law under review and to make proposals for reform. To date, the Commission has published over 140 documents containing reform proposals, available at www.lawreform.ie. About 70% of these proposals have led on to reforming legislation. The Consultation Paper will be available on the Commission's website on the afternoon of the launch, 28th July 2009. A Consultation Paper contains the Commission's provisional recommendations on an area and submissions on it are welcome. Those who wish make submissions are requested to do so in writing by post to the Commission or by email to info@lawreform.ie by 30 November